IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION No. 10297 of 1999

Between:

Vijayawada Private Electriacal Workers Cooperative Building society Ltd Reg:No.G.2669, represented by its President, Vijayawada.

..... PETITIONER

AND

1. Vijayawada Municipal Corporation, rep by its Commissioner Municipal Corporation Building, Vijayawada.
2. The Government of A.P., rep., by its Principal Secretary, U.D. & M.A. Development Department, Secretariat, Hyderabad.

(2nd respondent is impleaded as per orders in W.P.M.P.No.28056 of 2003 dated 25.01.2005)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ, order or direction more particularly in the nature of Mandamus directing the respondent to implement resolution No.4/232 passed on 28-1-1998 to restore the land , declaring any action of the respondent to allot 5 acres of land in R.S.No.65/1B and R.S.No.65/2 of Kundavari Kanddrika, Pathapadu Grampanchayat, Vijayawada to third parties “R.C.A.C.P.II-G2-19191/80, dated 22.08.1999 of the 2nd respondent as well as calling the proceedings issued by the Government in its Memo No.30394/N1/98-1 MA, dated 24.5.1999 and set aside the same as illegal, capricious, malafide , whimsical, and consequently allot the alternative site which is vacant in N.T.Sy.No.5 and 6 parts under Revenue Ward

No.15 Block No.10 near Disney land, side of burial grounds.

Counsel for the Petitioner:MR.M.V.RAJA RAM

Counsel for the Respondent NO.1:MR. T.S. VENKATA RAMANA

Counsel for the Respondent NO.2 : None appeared

The Court made the following:

ORDER:

The petitioner claims to be a Registered Society. It is claimed that the members of the petitioner-Society hail from lower class and lower middle class families, who mainly depend upon professional work such as electrical wiring, electrical installation etc. It is stated that in the year 1980 the petitioner-Society entered into an agreement with one Kurre Venkata Reddy of Payakapuram and Smt.Meka Anasuyamma for purchase of certain extent of land in S.Nos.65/1B and 65/2 of Kundavari Kandriga, Pathapadu Gram Panchayat, Vijayawada respectively and subsequently, it has purchased the same under registered sale Deeds. It is also stated that the petitioner-Society was put in possession of the said land. While so, at the instance of the Vijayawada Municipal Corporation, a large extent of Ac.47.87 cents of land, including the land purchased by the petitioner was sought to be acquired under the provisions of the Land Acquisition Act for rehabilitation of the encroachers in Auto Nagar and other Canal berms. It appears that the petitioner-society made representations to the Corporation requesting to delete the land purchased by it, since the said land is the only source of livelihood of its members. In pursuance thereof, the Municipal Corporation passed resolution accepting to provide certain extent of land to the petitioner-society out of Ac.47.87 cents of acquired land. However, the said resolution was not implemented, and aggrieved by the said action, the petitioner-society earlier filed W.P.No.16298 of 1992. During the

pendency of the said writ petition, by virtue of the order dated 18.12.1992 passed in W.P.M.P.No.20669 of 2002, there was a direction to the respondent-Corporation not to allot the land in question i.e., Ac.5.10 cents of land situated in R.S.No.65/1B and 65/2 of Konduvuri Kandriga, to the third parties. It is not in dispute that in pursuance of the said orders further proceedings were not taken by the Corporation for some time and thereafter the Corporation passed a fresh resolution on 28.1.1998 resolving to delete the land purchased by the petitioner-society from the land acquired subject to the condition that the petitioner-society withdraws the writ petition. It appears that the Special Deputy Collector, Land Acquisition informed the Corporation that it is not possible for deletion of the part of the land since the possession of the land was already taken and the compensation was also deposited into the Court. In the circumstances, though the petitioner has withdrawn the W.P.16298 of 1992, the land in question could not be restored to the petitioner. In the circumstances, the petitioner filed the present writ petition seeking a direction to the respondent Corporation to implement the resolution, dated 28.01.1998 and to restore the land in question to it.

In the counter-affidavit filed on behalf of the Corporation, it has been categorically stated that though the Corporation has passed several resolutions resolving that the land in question be restored to the petitioner, in view of the inability expressed by the Special Deputy Collector, the same could not be implemented and after the earlier writ petition was dismissed as withdrawn, the land in question was allotted to the encroachers in Auto Nagar and other Canal berms on 30.04.1999. The said fact has not been disputed by the petitioner-society. The first respondent has also issued proceedings dated 22-08-1999 rejecting the request of the petitioner for deletion of 5 Acres of land since the land acquisition process has already been completed.

Thus the fact remains that as on today the land in question is not available and therefore, Mandamus, as sought by the petitioner, cannot be granted. I also do not see any justifiable reason to interfere with the proceedings dated 22-8-1999 at this point of time, particularly since the land in question has already been allotted to the encroachers.

However, it is relevant to note that the specific plea of the petitioner-society is that alternative lands are available and the requests made by similarly situated persons for allotment of the said lands had already been considered by the

Corporation. Hence, I am of the view that if alternative lands are available, the request of the petitioner deserves to be considered on par with the similarly situated persons.

Accordingly, the writ petition is disposed of granting liberty to the petitioner-society to make a fresh representation to the respondents 1 and 2 herein with a request to allot the alternative site situated in S.Nos.6 and 6 parts in Revenue Ward No.16 or any other suitable land, if such a representation is made within a period of 6 weeks from today, respondents 1 and 2 shall consider the same and pass appropriate orders in accordance with law as expeditiously as possible, preferably within a period of eight weeks thereafter.

The writ petition is accordingly disposed of. No costs.

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25.01.2005

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To

1 The Comissioner, Vijayawada Municipal Corporation,
Corporation Building, Vijayawada.
2. The Principal Secretary, Government of A.P.,U.D. & M.A.
Development Department, Secretariat, Hyderabad.

3. 2CD copies.